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REPORT TO COMMITTEE
ON INTERIOR AND INSULAR AFFAIRS
UNITED STATES SENATE



LM089723

Information On Federally Owned
Submarginal Land Proposed To Be
Held In Trust For The
Stockbridge Munsee Indian
Community In Wisconsin

B-147652, B-147655

Bureau of Indian Affairs
Department of the Interior

**BY THE COMPTROLLER GENERAL
OF THE UNITED STATES**

OCT. 27, 1971

089723



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-147652

B-147655

01412

Dear Mr. Chairman:

In accordance with your request of April 1, 1971, this is our report containing information on federally owned submarginal land on the Stockbridge Munsee Reservation in Wisconsin proposed to be held in trust for the Stockbridge Munsee Indian Community. Our comments on S. 1230, which would convey beneficial interest in this land to the Indians, have been furnished separately.

The information in this report updates information contained in our 1962 report on the review of proposed legislation for conveyance to certain Indian tribes and groups of submarginal land administered by the Bureau of Indian Affairs, Department of the Interior (B-147652, B-147655, August 13, 1962).

A report updating information on land proposed to be held in trust for the Minnesota Chippewa Tribe in Minnesota is also being furnished separately. Updated information on the other tribes mentioned in the 1962 report will be furnished later.

We plan to make no further distribution of this report unless specifically requested, and then we shall make distribution only after your agreement has been obtained or public announcement has been made by you concerning the contents of the report.

Sincerely yours,

Comptroller General
of the United States

01412
The Honorable Henry M. Jackson, Chairman
Committee on Interior and Insular Affairs
United States Senate

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*COMPTROLLER GENERAL'S REPORT TO
THE COMMITTEE ON INTERIOR AND
INSULAR AFFAIRS, UNITED STATES
SENATE*

INFORMATION ON FEDERALLY OWNED
SUBMARGINAL LAND PROPOSED TO BE
HELD IN TRUST FOR THE STOCKBRIDGE
MUNSEE INDIAN COMMUNITY IN
WISCONSIN

1 Bureau of Indian Affairs 6
- Department of the Interior 2
✓ B-147652, B-147655

D I G E S T

WHY THE REVIEW WAS MADE

The Chairman of the Senate Committee on Interior and Insular Affairs, in a letter dated April 1, 1971, requested the General Accounting Office (GAO) to provide the Committee an updated version of GAO's 1962 report on the review of proposed legislation for conveyance to certain Indian tribes and groups of submarginal land administered by the Bureau of Indian Affairs, Department of the Interior (B-147652, B-147655, August 13, 1962). The Chairman also requested GAO to examine into how conveyance of the lands in question can contribute to the social and economic development of the Indian groups involved.

FINDINGS AND CONCLUSIONS

Under proposed legislation beneficial interest in 13,077 acres, more or less, of submarginal land on or near the Stockbridge Reservation in Shawano County, Wisconsin, would be conveyed to the tribe with title to be held in trust by the United States Government. Using values of comparable land published by the county assessor, GAO estimates that the market value of the land to be conveyed is \$600,000. (See p. 6.)

Improvements on the land consist of 31 houses and a church. (See p. 8.) The unimproved land is used primarily for timber production from which the Government, over the 5-year period ended December 31, 1970, received revenues averaging \$14,500 annually. (See p. 8.)

According to the Bureau of Indian Affairs, the submarginal land has some potential for development for recreational, residential, commercial, and industrial purposes. (See p. 11.) Bureau and tribal officials have stated that the tribe has not had the financial resources to undertake such development, and that title to the land is essential to development of the land's potential. (See p. 12.)

If beneficial interest in the submarginal land is conveyed to the Stockbridge Munsee Community, the revenues from timber cutting permits, which presently are being collected by the Government, would accrue to the tribe, except for that portion the Bureau would charge to cover its

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administrative costs. GAO believes that such revenues could help the tribe advance its economic and social standing, provided they are invested in planning, establishing, and operating enterprises which would employ Indians and have reasonable chances of success. (See p. 14.)

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ABBREVIATIONS

BIA	Bureau of Indian Affairs
GAO	General Accounting Office

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THE COMMITTEE ON INTERIOR AND
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CHAPTER 1

INTRODUCTION AND SCOPE

Pursuant to a request dated April 1, 1971, from the Chairman of the Senate Committee on Interior and Insular Affairs (see app. I), the General Accounting Office has obtained information to update certain factual data contained in our August 1962 report on submarginal land administered by the Bureau of Indian Affairs (BIA), Department of the Interior.¹ That report was submitted to the House and Senate Committees on Interior and Insular Affairs.

The Chairman's request was made in connection with a bill which would convey beneficial interest in certain federally owned submarginal land to the Stockbridge Munsee Indian Community in Wisconsin with title to be held in trust by the United States Government. This report presents updated information on those lands.

To obtain the information, we reviewed pertinent records and interviewed officials at BIA headquarters in Washington, D.C.; the BIA Area Office in Minneapolis, Minnesota; the BIA Great Lakes Agency Office in Ashland, Wisconsin; and the Stockbridge Reservation. We also interviewed the Agriculture Department's District Conservationist and a geologist of the U.S. Geological Survey, Department of the Interior, to obtain their opinions on certain matters within their areas of expertise.

STOCKBRIDGE MUNSEE TRIBAL LANDS

The Stockbridge and Munsee Band of Mohican Indians settled in Wisconsin in the second decade of the 1800s. Under treaty arrangement of September 23, 1822, this group acquired

¹ Report on Review of Proposed Legislation for Conveyance to Certain Indian Tribes and Groups of Submarginal Land Administered by Bureau of Indian Affairs, Department of the Interior (B-147652, B-147655, August 13, 1962).

lands in a locality then known as Stockbridge between what is now Kaukauna and Green Bay, Wisconsin.

Under the Treaty of 1856, the Stockbridge and Munsee Indians ceded to the United States their land at Stockbridge, Wisconsin, and some land in Minnesota. In consideration of this transfer, the United States selected and gave the Indians for their reservation a tract of land in Shawano County in east central Wisconsin near the southern boundary of the Menominee Indian reservation, now Menominee County.

Under the Act of February 6, 1871, the tract of land set apart under the Treaty of 1856 was appraised and sold by the United States for the benefit and relief of the Stockbridge and Munsee Indians, except

"*** not exceeding eighteen contiguous sections, embracing such as are now actually occupied and improved, and are best adapted to agricultural purposes, subject to allotment to members of the Indian party of said tribe ***."

The act further provided that the allotments be held in trust for individuals or their heirs and that any surplus lands be held either subject to allotment or be disposed of for the common benefit of the tribe.

Under an act for the relief of the Stockbridge and Munsee Indians, approved on March 3, 1893, all tribal members who acquired possession of lands under the allotments of 1856 and 1871, and who since then, by themselves or by their lawful heirs, had continuously resided on the lands, were declared to be the owners of such lands.

Between 1893 and 1909 the Federal Government gave title to the Indians who then apparently sold or disposed of the land because Federal jurisdiction had been removed.

Under the Indian Reorganization Act of 1934 (25 U.S.C. 465), the Government purchased 1,050 acres of former reservation lands, together with existing improvements. In March 1937 the Secretary of the Interior established the new Stockbridge Reservation and the land was placed in tribal

trust. Over the following 4 to 5 years the Government purchased 1,200 additional acres of former reservation lands pursuant to the authority of the Indian Reorganization Act. These purchases brought the new Stockbridge Reservation to its present size of 2,250 acres. According to BIA records, the Government paid a total of \$22,534 for the 2,250 acres which is held under tribal trust.

SUBMARGINAL AND OTHER RESERVATION LANDS

In addition to the tribal trust lands, the former reservation land consists of submarginal land owned by the Government and land owned by individuals and timber companies. The submarginal land owned by the Government, including 40 acres of such land near but outside the boundaries of the former reservation, is the land in which beneficial interest is proposed to be conveyed to the Stockbridge Munsee Community.

The submarginal land was acquired by the Government under the provisions of title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115), and section 55 of the Act of August 24, 1935 (49 Stat. 750, 781). The land, purchased at a cost of \$69,546, comprises 13,077 acres including the 40 acres located outside the boundaries of the former reservation.

On the basis of land values published by the county assessor's office for the various types of lands (forest, agricultural, and swamp and wastelands), applied to the acreages of the types of lands as classified in a BIA inventory, we estimate that the current market value of the submarginal land is \$600,000. In 1962 we reported that the market value of this land, estimated on the same basis, was \$214,400.

The following table shows the present classes of ownership of the land comprising the original Stockbridge Munsee reservation.

<u>Ownership</u>	<u>Acres</u>
Tribal trust	2,250
Government-owned (submarginal)	12,997 ^a
Other (individuals and timber companies)	<u>7,868</u>
Total acres	<u>23,115</u>

^aThis figure does not include the 40-acre parcel located near but outside the boundaries of the reservation, or another 40-acre parcel, located within the reservation, for which the Government's title was found to be defective. Good title to this parcel is apparently held by the State of Wisconsin.

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BIA Great Lakes Agency records showed that about 500 Indians lived on or near the reservation as of March 1971. At the time of our 1962 review, agency officials told us that about 200 Indians lived on or near the reservation. We did not examine into the reasons for the significant increase in the number of Indians residing on the reservation.

CHAPTER 2

INFORMATION ON SUBMARGINAL

AND TRIBAL LANDS

IMPROVEMENTS ON SUBMARGINAL LAND

BIA and tribal representatives told us that they were unaware of any major improvements on the submarginal land since 1962 when the improvements consisted of about 36 houses and a church. As of August 1971, improvements on the submarginal land consisted of 31 houses and the church.

The tribe's business administrator told us that a youth building, financed with \$8,500 contributed by a private foundation, was under construction on the submarginal land and that arrangements were being made to include a baseball diamond and other outside sport facilities on a 20-acre parcel of the submarginal land.

PRESENT USES OF SUBMARGINAL LAND

The unimproved submarginal land is used primarily for the production of timber under a timber management plan implemented by BIA foresters in 1963. The principal marketable species are maple, aspen, hemlock, yellow birch, and basswood.

During calendar year 1970, BIA issued 34 permits for harvesting timber from the submarginal land, from which revenues of \$13,836 accrued to the Government. From inception of the timber management plan in 1963 through the end of calendar year 1970, the Government received timber permit revenues of \$86,142. Over the 5-year period ended December 31, 1970, these revenues averaged \$14,500 annually.

All of the 1970 permits were issued to tribal members who sold the harvested timber to timber companies and individual non-Indians. These timbering activities provided about 8 man-years of employment to tribal members. Free-use permits were issued to tribal members who needed timber for their personal uses.

None of the submarginal land was leased by BIA but it has issued revocable permits to the tribe for three parcels which comprise a total of less than 10 acres. The tribe uses one land parcel for tribal headquarters and subpermits the other two parcels to a church and a used car dealer. The car dealer pays the tribe \$50 annually for the subpermitted land.

BIA foresters and the Agriculture Department's District Conservationist told us that timber production was the most economical use of the submarginal lands (and tribal lands as well). A BIA forester told us that the next best use would be to develop rivers and streams into recreational areas.

In the fall of 1969 BIA took an inventory of the utilization of the submarginal and tribal lands on the Stockbridge reservation. The reported results were as follows.

<u>Use</u>	<u>Acres</u>	
	<u>Submar- ginal</u>	<u>Tribal trust</u>
Forest	12,399	1,972
Agriculture	286	67
Swamp or wasteland	<u>352</u>	<u>211</u>
Total acres	<u>13,037</u>	<u>2,250</u>

Of the submarginal land suitable for agriculture, 160 acres were being farmed at the time of our review. The remaining 126 acres of such land consisted of small scattered parcels sometimes used for producing hay.

Prior to 1960, the tribal council made assignments of parcels of the submarginal land to members of the community. Revenue from the assignments accrued to the tribe. Some of the assignees built houses and other improvements on these tracts. In 1960, the Commissioner of Indian Affairs declared the assignments null and void because the Bureau held title to the submarginal land and the tribe had no valid authority over such land. He stated, however, that other arrangements should be made for the assignees' continued occupancy of the land.

The Commissioner recommended that the Bureau issue revocable permits to the tribe and that the tribe issue subpermits to those using the land. No revocable permits, except for the three mentioned above, have been issued and the tribe continued to make assignments to its members. At the time of our review, about 6,200 acres of submarginal land had been assigned by the tribe in parcels ranging in size from 2 to 40 acres and the tribe has continued to charge a fee of \$2 to \$10 for each assignment.

EFFORTS TO DEVELOP SUBMARGINAL AND TRIBAL LANDS

Except for the timber management plan implemented in 1963, efforts to develop the submarginal and tribal lands have not resulted in significant changes in the use of the lands since 1962.

In 1965 the Great Lakes Agency Office prepared a real estate planning report on the tribal and submarginal lands. In addition to timber production and harvesting, the report cited as other potential uses for reservation lands (1) development of recreational areas to include camping, hunting, and fishing facilities, (2) residential housing, and (3) commercial and industrial development. The report did not show separately the acreages of tribal and submarginal lands suitable for those purposes.

The Agency Office's land records and our discussions with the tribal land chairman indicated that, following the issuance of the 1965 real estate planning report, the Stockbridge Munsee Community inquired into the prices of various privately owned lands within the reservation, including a tract of 160 acres adjacent to a trout stream for use as a recreation area. A lack of funds prevented the tribe from purchasing any of the lands.

Neither the tribe nor BIA had any detailed plans for other recreational activities showing specific locations, types of activities, or estimates of funds needed to develop the recreational potential of tribal or submarginal lands.

PLANNED USES OF SUBMARGINAL AND TRIBAL LANDS

BIA and tribal officials told us of the following proposed projects which would be located on or make use of submarginal or tribal lands.

In July 1971, BIA and tribal officials held discussions with a non-Indian firm that was interested in locating a plant for recycling plastics on submarginal land. The availability of water was a principal factor in considering the desired location. The company's proposal would require the Stockbridge Munsee Community to provide sufficient land, a

good road, a rail siding, an initial cash investment of \$250,000, and other financing, as warranted, for a 30-percent share in the profits of the recycling plant after debt retirement. No decision had been made on the proposal at the time of our review.

The tribe has also applied to participate in a program, sponsored by the Upper Great Lakes Regional Commission, under which Indians would be trained to operate and manage a wild rice paddy project. A tribal official told us that the tribe has two trainee candidates and is looking for two more.

Tribal officials also told us that the Department of Housing and Urban Development had approved the financing for the construction of 40 houses under its turnkey III program. Under turnkey III, a developer constructs the house for the tribal housing authority and the Indian family obtains an equity in the house through monthly payments and through maintenance of its house.

BIA and tribal officials cited financial limitations as the principal deterrent to further development of reservation land. The officials emphasize the tribe's need to obtain title to the submarginal land as essential to development of the land's potential. They said that the income now accruing to the Government from timber cutting on the land was needed as a source of funds for developing land resources.

A Bureau official told us that, if beneficial interest in the submarginal land is conveyed to the tribe, the Bureau would continue to manage and protect the forest land and administer timber sales. The Government would retain 5 or 10 percent from the gross timber cutting revenues to cover these costs in whole or in part, as required by the Federal regulations (25 CFR 141.18).

NATURAL AND MINERAL RESOURCES

The soil on the reservation is predominantly medium textured loam and silt loam topsoil on rolling topography with many stones and boulders. Agency and tribal representatives stated they knew of no mineral surveys or of any potentially valuable minerals on the submarginal land other than a limited amount of sand and gravel. In response to a BIA request for information concerning certain submarginal land projects, the Director of the U.S. Geological Survey said in October 1970 that the submarginal land on the Stockbridge Reservation was without value for minerals, either metalliferous or nonmetalliferous. A Geological Survey geologist told us, however, that this opinion was based on several available sources of information and that the Geological Survey had not made a detailed survey on the Stockbridge Reservation.

BIA and tribal officials stated that the submarginal land which is adjacent to streams is suitable for summer home sites and recreational purposes.

TRIBAL FINANCIAL RESOURCES

The tribal records as of May 8, 1971, showed a cash balance of \$3,154 and liabilities of \$285. We did not verify these figures.

Buildings on tribal lands were the same ones shown on the tribal records in 1962 as having cost \$3,500.

The tribe has made no recent efforts to appraise its land. However, a tribal balance sheet prepared by BIA's Great Lakes Agency Office, but not verified by us, showed the value of the tribal land as \$124,759 as of December 31, 1961. The basis for the valuation was not shown.

The Stockbridge Munsee Community expects to receive about \$137,000 as its share of an Indian Claims Commission award to three tribes in Wisconsin in settlement of claims arising out of treaties entered into between 1832 and 1835. The tribe plans to distribute a portion of the award to its members on a per capita basis and retain the balance for development of tribal resources. The tribe has made no

decision regarding the amounts to be distributed and retained for development.

CONCLUSION

If beneficial interest in the submarginal land is transferred to the Stockbridge Munsee Community, the revenues from timber-cutting permits, which presently are being collected by the Government, would accrue to the tribe, except for that portion the Bureau would charge to cover its administrative costs. Such net revenues could help the tribe advance its economic and social standing, provided they are invested in planning, establishing, and operating enterprises which would employ Indians and have reasonable chances of success.

APPENDIX

HENRY M. JACKSON, WASH., CHAIRMAN
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United States Senate

COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS
WASHINGTON, D.C. 20510

B-147652

B-147655

April 1, 1971

Honorable Elmer B. Staats
Comptroller General of the United States
Washington, D. C.

Dear Elmer:

This letter is in reference to the Comptroller General's Report on Submarginal Land which was submitted to the House and Senate Committees on Interior and Insular Affairs on August 13, 1962.

Recently, Senator Gordon Allott, ranking minority member of the Committee, and I introduced two bills S. 1217 and S. 1230 to convey beneficial interest in submarginal lands to the Indians on the White Earth Reservation in Minnesota and the Stockbridge Munsee Indian Community in Wisconsin, respectively, with title to be held in trust by the United States Government. The bills were based on Executive Communications transmitted to the Congress by the Administration.

Hearings were held on the proposed legislation on March 26, 1971, with testimony being presented by Administration and tribal officials. The proposed legislation was discussed before the full Committee in executive session on March 31, 1971. At that time, Senator Allott moved that the two bills be tabled until such time as the Comptroller General could present the Committee with an updated revision of the 1962 report.

Please consider this letter an official request to have your staff begin an updating of the document in question. Also, you or representatives from your office may find it useful to discuss this matter with Mr. Jerry T. Verkler, Staff Director of the Committee.

In preparing for the revision, I believe it is important for you to give recognition to the fact that both

Honorable Elmer B. Staats

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April 1, 1971

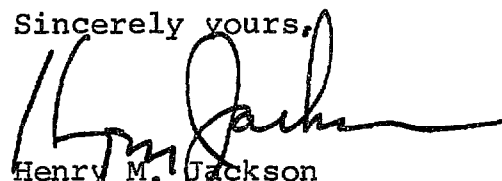
the Administration and Congress have, in a sense, repudiated the so-called "termination" policies of the 1950's. President Nixon's Indian Message to Congress of July 8, 1970, clearly states a policy of "Self-Determination, without Termination." Also, during the past Congress, a number of concurrent resolutions repudiating termination as a policy in the Indian field were introduced in both Houses of Congress. The multi-agency involvement in Indian affairs with identifiable Federal expenditures in excess of \$625 million in the 1971 fiscal year is further evidence that we view development of the human and natural resources of our Indian citizens as a more realistic approach to this complex problem.

I am hopeful that the updating of your 1962 Report on Submarginal Lands will be undertaken within the more positive climate of Indian affairs today, and that your staff will examine closely how the conveyance of the lands in question to Indian tribes can contribute to their social and economic advancement.

Enclosed are copies of S. 1217 and S. 1230 currently pending before our Committee. Will you please review these bills now and submit an immediate report to the Committee on them to expedite our consideration of this legislation.

With every good wish,

Sincerely yours,



Henry M. Jackson
Chairman

HMJ:fg
Enclosures

Note: Copies of S. 1217 and S. 1230 have not been reproduced herein.
The requested report on the bills is being furnished separately.